

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**IN THE MATTER OF AMERICAN
ASSOCIATION FOR LABORATORY
ACCREDITATION INC.**

Case No. 23-MC-47

ORDER

On August 18, 2023, the American Association for Laboratory Accreditation, Inc. (“A2LA”) filed a motion for an order barring Robert J. Hutchinson from filing a threatened lawsuit against Metallurgical Associates, Inc. (“MAI”), Thomas Tefelske, Dorothy Dey, A2LA, and A2LA’s peer review auditor. (Docket # 1.) A2LA asserts that Hutchinson’s new lawsuit falls under a filing bar entered by this Court on June 14, 2021 in *Hutchinson v. Kelling, et al.*, Case No. 20-CV-1264 (E.D. Wis.). A2LA’s motion was opened as a miscellaneous case and assigned to Judge J. P. Stadtmueller. Judge Stadtmueller determined that Hutchinson’s threatened lawsuit against A2LA and the others did fall under the filing bar entered in Case No. 20-CV-1264 (Docket # 4 in 23-MC-47), which states that “Hutchinson is barred from future filings in this district against the defendants named in this lawsuit, arising out of the litigation over the ownership of MAI’s books and records” (Docket # 114 at 4 in Case No. 20-CV-1264).

Hutchinson subsequently appealed Judge Stadtmueller’s order in 23-MC-47 and moved to enlarge the appellate record to include three items: (1) the June 14, 2021 Order in Case No. 20-CV-1264 establishing the filing bar; (2) “Magistrate Judge Joseph’s notice, issued on or about March 28, 2022, approving my filing of E.D. Wis. 22-CV-0382,” and (3)

Hutchinson's July 26, 2023 letter to A2LA's president regarding the threatened complaint. (Docket # 10 in 23-MC-47.) Judge Stadtmueller referred Hutchinson's request to enlarge the appellate record to me, noting in particular regarding the second item that "[t]o the extent Magistrate Judge Joseph approved the filing [in Case No. 22-CV-382] and a formal record of that approval exists . . . Magistrate Judge Joseph is in the best position to address the issue." (Docket # 11 at 2 in 23-MC-47.) As to this item, no formal record approving the filing of Hutchinson's complaint in Case No. 22-CV-382 exists. Furthermore, whether Hutchinson was allowed to file his complaint in Case No. 22-CV-382 is irrelevant to whether the threatened complaint in the instant case falls under the filing bar. Thus, Hutchinson's motion as to item two is denied.

As to items one and three, to the extent on appeal Hutchinson challenges Judge Stadtmueller's determination that his threatened complaint falls under the original filing bar, the inclusion of the original June 14, 2021 Order from Case No. 22-CV-1264 is relevant and should be included in the appellate record. The third item is simply the cover letter Hutchinson sent to A2LA's president along with the threatened complaint that is already part of the record. It appears this document may be relevant to the appeal and should be included in the appellate record as well.

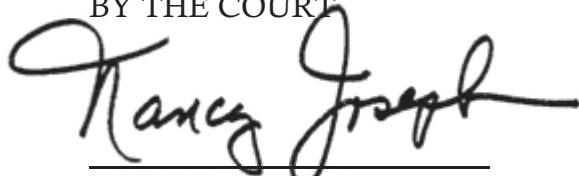
NOW, THEREFORE, IT IS ORDERED that Hutchinson's Motion to Enlarge the Appeal Record (Docket # 10) is **GRANTED IN PART AND DENIED IN PART**. The June 14, 2021 Order from Case No. 20-CV-1264 (Docket # 114) and Hutchinson's July 26, 2023 letter to A2LA's president Lonnie Spires (Docket # 10-1) is added to the appeals record in Case No. 23-MC-47. However, as no formal record approving Hutchinson's filing of the

complaint in Case No. 22-CV-382 exists, nor is it relevant to the instant case, Hutchinson's motion as to this item is denied.

Your attention is directed to General L.R. 72(c), 28 U.S.C. § 636(b)(1)(B) and Federal Rules of Criminal Procedure 59(b), or Federal Rules of Civil Procedure 72(b) if applicable, whereby written objections to any recommendation or order herein, or part thereof, may be filed within fourteen days of the date of service of this recommendation or order. Objections are to be filed in accordance with the Eastern District of Wisconsin's electronic case filing procedures. Failure to file a timely objection with the district court shall result in a waiver of a party's right to appeal. If no response or reply will be filed, please notify the Court in writing.

Dated at Milwaukee, Wisconsin this 6th day of September, 2023.

BY THE COURT



NANCY JOSEPH
United States Magistrate Judge